

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LISA HORN,

Plaintiff,

v.

NOTICE OF REMOVAL

WAL-MART STORES, INC.
f/k/a WALMART, INC. and
WALMART, INC.
n/k/a WAL-MART STORES, INC.

Case №.

Defendants.

PLEASE TAKE NOTICE that defendants Wal-Mart Stores, Inc. f/k/a Walmart, Inc. and Walmart, Inc. n/k/a Wal-Mart Stores, Inc. (hereinafter, “Removing Defendants”), by their attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *Lisa Horn, Plaintiff, versus Wal-Mart Stores, Inc. n/k/a Walmart, Inc. et al., Defendants*, Index №. E68898 (the “Action”), from the Supreme Court of the State of New York, County of Genesee, to the United States District Court for the Western District of New York.

In support thereof, Removing Defendants state:

1. On or about January 29, 2021, Plaintiff Lisa Horn (hereinafter, “Plaintiff”) commenced the Action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of Genesee, against the Removing Defendants. A copy of the Summons and Complaint is attached hereto and incorporated herein by reference as **Exhibit A**.

2. On March 25, 2021, Removing Defendants appeared in the Action by serving their Answer, a copy of which is attached hereto and incorporated herein by reference as

Exhibit B.

3. After the commencement of the action, and in accordance with N.Y. CPLR 3017(c), Removing Defendants served a Request for Supplemental Demand for Relief on the Plaintiff, a copy of which is attached and incorporated herein by reference as **Exhibit C**.

4. On July 6, 2021, Removing Defendants received a response to Plaintiff's Supplemental Demand for Relief, dated June 30, 2021, seeking One Million Dollars (\$1,000,000.00) in damages in this action, a copy of which is attached herein by reference as **Exhibit D**.

5. According to Plaintiff's Complaint, Plaintiff Lisa Horn is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See Ex. A.*

6. Removing Defendant Wal-Mart Stores, Inc. f/k/a Walmart, Inc., is now known as Walmart Inc., which is a corporation organized under the laws of the State of Delaware, with a principal place of business in the State of Arkansas and, therefore, for the purposes of this Notice of Removal, is a citizen of the States of Delaware and Arkansas.

7. Removing Defendant Walmart, Inc. n/k/a Wal-Mart Stores, Inc. is now known as Walmart Inc., which is a corporation organized under the laws of the State of Delaware, with a principal place of business in the State of Arkansas and, therefore, for the purposes of this Notice of Removal, is a citizen of the States of Delaware and Arkansas.

8. This Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00) exclusive of interest and costs; and (c) none of the parties in interest who are properly

joined and served as Defendants are citizens of New York State. The Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days after receipt by the Removing Defendants of Plaintiff's Demand for Relief (the other paper from which it was first ascertainable that the case is removable), and within one (1) year of commencement of the Action.

10. Pursuant to 28 U.S.C. §1446(b)(2), all defendants who have been properly joined and served join in and consent to the removal of the Action.

11. Pursuant to 28 U.S.C. §1441(a), removal venue exists in the United States District Court for the Western District of New York because the Supreme Court, Genesee County (the Court in which the Action was originally filed) is within the jurisdiction of the Western District of New York.

12. Pursuant to 28 U.S.C. §1446(a), all process, pleadings, and orders served to date upon the Removing Defendants are appended hereto. Pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit E**.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being served upon the Plaintiff and is being filed with the Clerk of the Supreme Court, Genesee County. See Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit F**.

14. Removing Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, Removing Defendants request that the case styled *Lisa Horn, Plaintiff, versus Wal-Mart Stores, Inc. n/k/a Walmart, Inc. et al., Defendants*, Supreme Court of

the State of New York, County of Genesee, Index No. E68898, be removed to this Court, and that this Court take subject matter jurisdiction over this Action.

Dated: Buffalo, New York
July 23, 2020

Yours, etc.,



BENNETT SCHECHTER
ARCURI & WILL LLP
By: Pauline C. Will, Esq.
Sarah E. Schulz, Esq.
Attorneys for Removing Defendants
701 Seneca Street, Suite 609
Buffalo, New York 14210
Telephone (716) 242-8100
pwill@bsawlaw.com
sschulz@bsawlaw.com

To: Peter M. Kooshoian, Esq.
ROSENTHAL, KOOSHOIAN & LENNON, LP
Attorney for Plaintiff
80 West Huron Street
Buffalo, New York 14202
Phone: (716) 854-1300
pk@bufflaw.com